

By: Davis of Dallas

H.B. No. 3167

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to electronic contracts and solicitations offered to  
3 consumers for goods or services.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Subtitle B, Title 10, Business & Commerce Code,  
6 as effective April 1, 2009, is amended by adding Chapter 327 to read  
7 as follows:

8 CHAPTER 327. ELECTRONIC CONTRACTS AND SOLICITATIONS

9 Sec. 327.001. DEFINITIONS. In this chapter:

10 (1) "Consumer" means a person who seeks or obtains a  
11 good or service that is to be used primarily for personal, family,  
12 or household purposes.

13 (2) "Electronic" has the meaning assigned by Section  
14 322.002.

15 (3) "Electronic contract" means a legal obligation  
16 resulting from the parties' agreement as affected by applicable law  
17 that is entered into by electronic means.

18 Sec. 327.002. REQUIREMENTS OF ELECTRONIC CONTRACTS AND  
19 SOLICITATIONS. To the extent allowed by federal law, an electronic  
20 contract or solicitation offered to a consumer for the purchase of a  
21 good or service must:

22 (1) be in plain language;

23 (2) be in a readable and understandable format; and

24 (3) include, in a conspicuous format distinguishable

1 from other information, important terms of the contract, including  
2 any of the following information, as applicable:

3 (A) customer service contact information;

4 (B) pricing information;

5 (C) cancellation policies;

6 (D) interest charged;

7 (E) date on which the trial period expires; and

8 (F) penalties or fees imposed.

9 Sec. 327.003. ELECTRONIC CANCELLATION OF SERVICES. To the  
10 extent allowed by federal law, if a person offers a consumer the  
11 option of entering into an electronic contract for services that  
12 contains a provision that allows the consumer the option to cancel  
13 the services under the contract, the person offering the electronic  
14 contract must also provide the consumer with the ability to  
15 electronically cancel services under the contract.

16 Sec. 327.004. CONTRACT VOID. An electronic contract for  
17 services that cannot be canceled electronically or that violates  
18 Section 327.002 is void.

19 Sec. 327.005. PRIVATE RIGHT OF ACTION. (a) A consumer  
20 injured by a violation of this chapter may bring an action against a  
21 person who commits the violation to recover the greater of:

22 (1) actual damages arising from the violation; or

23 (2) \$1,000.

24 (b) A person who prevails in an action brought under this  
25 section is entitled to recover reasonable attorney's fees and court  
26 costs.

27 SECTION 2. The change in law made by this Act applies only

1 to a solicitation or contract made, entered into, or renewed on or  
2 after the effective date of this Act. A solicitation or contract  
3 made, entered into, or renewed before the effective date of this Act  
4 is governed by the law in effect when the solicitation or contract  
5 was made, entered into, or renewed, and the former law is continued  
6 in effect for that purpose.

7 SECTION 3. This Act takes effect September 1, 2009.